

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 29, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KYLE WILLIAM GAUMNITZ,
Petitioner,

No. 2:21-CV-00010-SAB

V.

ORDER DISMISSING ACTION

STATE OF WASHINGTON,
Responder

15 On January 7, 2021, Petitioner, a prisoner at the Coyote Ridge Corrections
16 Center, filed a *pro se* Petition for Writ of Habeas Corpus by a Person in State
17 Custody pursuant to 28 U.S.C. § 2254. ECF No. 1. Petitioner neither paid the filing
18 fee nor submitted a completed Application to Proceed without Prepayment of Fees
19 as required by Rule 3(a) of the Rules Governing Section 2254 Cases in the United
20 States District Courts.

21 By letter dated January 7, the Clerk of Court advised Petitioner of these
22 deficiencies. ECF No. 3. The Clerk of Court provided him with the “Certificate”
23 section of the application form to proceed without prepayment of fees to complete
24 and return. *Id.* Petitioner has not complied with this directive and has filed nothing
25 further.

On March 5, 2021, this Court ordered Petitioner to submit a completed Application to Proceed without Prepayment of Fees within **thirty days** of the date of that Order. ECF No. 4. In the alternative, Petitioner was advised he could pay

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1 the full \$5.00 filing fee. *Id.* Petitioner was cautioned that his failure to do so would
2 result in the dismissal of this action. *Id.* Petitioner has neither paid the filing fee nor
3 returned the Application to Proceed without Prepayment of Fees by the due date of
4 April 5, 2021.

5 Accordingly, **IT IS HEREBY ORDERED:**

6 1. This action is **DISMISSED WITHOUT PREJUDICE** for failure to
7 pay the filing fee or comply with the *in forma pauperis* requirements of Rule 3(a)
8 of the Rules Governing Section 2254 Cases in the United State District Courts.

9 2. The Clerk of Court is directed to **ENTER JUDGMENT** and **CLOSE**
10 the file.

11 3. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal
12 from this decision could not be taken in good faith and there is no basis upon
13 which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App.
14 P. 22(b). A certificate of appealability is therefore **DENIED**.

15 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
16 and provide copies to Petitioner at his last known address.

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18 **DATED** this 29th day of April 2021.



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22 Stanley A. Bastian
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24 Stanley A. Bastian
25 United States District Judge
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